

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #1	CCRB Case #: 201806590	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/09/2018 1:53 AM	Location of Incident: [REDACTED]	Precinct: 70	18 Mo. SOL 2/9/2020	EO SOL 2/9/2020	
Date/Time CV Reported Sun, 08/12/2018 3:06 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 08/12/2018 3:06 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Marika Williams	04520	961581	070 PCT
2. POM Desean Mullings	19483	959833	070 PCT
3. POM Luis Ramirez	08533	962042	070 PCT
4. POM Andrew Demichael	12438	946914	070 PCT
5. An officer			070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Desean Mullings	Abuse: Police Officer Desean Mullings threatened to seize § 87(2)(b) s property.	[REDACTED]
B.POM Desean Mullings	Abuse: Police Officer Desean Mullings entered § 87(2)(b) § 87(2)(b) in Brooklyn.	[REDACTED]
C.POM Desean Mullings	Abuse: Police Officer Desean Mullings seized § 87(2)(b) s property.	[REDACTED]
D.POM Desean Mullings	Force: Police Officer Desean Mullings used physical force against § 87(2)(b)	[REDACTED]
E.POF Marika Williams	Force: Police Officer Marika Williams used physical force against § 87(2)(b)	[REDACTED]
F.POM Luis Ramirez	Force: Police Officer Luis Ramirez used physical force against § 87(2)(b)	[REDACTED]
G.POM Andrew Demichael	Force: Police Officer Andrew Demichael used physical force against § 87(2)(b)	[REDACTED]
H. An officer	Force: An officer used physical force against § 87(2)(b)	[REDACTED]

### Case Summary

On August 12, 2018, § 87(2)(b) filed this complaint on the CCRB's website.

On August 9, 2018, at approximately 1:53AM, Police Officers Desean Mullings and Marika Williams, from the 70<sup>th</sup> Precinct, responded to a noise complaint at § 87(2)(b)'s apartment, located at § 87(2)(b) § 87(2)(b) in Brooklyn. PO Mullings allegedly threatened to confiscate § 87(2)(b)'s television (**Allegation A-Abuse of Authority:** § 87(2)(g) PO Mullings allegedly entered § 87(2)(b)'s apartment and seized her radio (**Allegations B and C: Abuse of Authority:** § 87(2)(g) At 2:27AM, PO Mullings and PO Williams, along with Police Officers Andrew Demichael and Luis Ramirez, also of the 70<sup>th</sup> Precinct, responded to a dispute at § 87(2)(b). In the process of arresting § 87(2)(b) the officers allegedly used physical force against her (**Allegations D, E, F, and G: Force:** § 87(2)(g) An officer allegedly slammed § 87(2)(b)'s head into a glass door (**Allegation H: Force:** § 87(2)(g)

§ 87(2)(b) was arrested and charged with menacing in the third degree, disorderly conduct, and harassment in the second degree. Video was obtained from § 87(2)(b) and is embedded in the report below. The full video can be found at Board Review 01 § 87(2)(g)

### Findings and Recommendations

**Allegation A-Abuse of Authority: Police Officer Desean Mullings threatened to seize § 87(2)(b)'s property.**

**Allegation B-Abuse of Authority: Police Officer Desean Mullings entered § 87(2)(b) § 87(2)(b) in Brooklyn.**

**Allegation C-Abuse of Authority: Police Officer Desean Mullings seized § 87(2)(b)'s property.**

§ 87(2)(b) testified that prior to PO Mullings and PO Williams arriving, she was alone inside her apartment watching television at a reasonable volume level (Board Review 02). When § 87(2)(b) opened the door, PO Mullings told her that they were there in regards to a noise complaint and told § 87(2)(b) "Turn the TV down before we confiscate it." § 87(2)(b) explained to the officers that there was an ongoing situation with her neighbor and that this was not a legitimate noise complaint but rather something personal. When PO Williams asked § 87(2)(b) for her identification, § 87(2)(b) went back inside her apartment, picked up her identification card from her bed, lowered the television, and turned on her radio. When asked how loud her radio was, § 87(2)(b) repeatedly insisted that the radio was small. § 87(2)(b) stated that the radio § 87(2)(b) have seemed loud to the officers because they were standing in front of her open door.

When § 87(2)(b) returned to the front door, PO Mullings told § 87(2)(b) "Now I'm gonna confiscate your radio." § 87(2)(b) responded in a sarcastic manner, "Well confiscate my radio then. Take the fucking radio. Do you want to confiscate everything I do?" PO Mullings then entered the apartment, grabbed § 87(2)(b)'s radio from beside her television and returned outside of the door. When PO Mullings exited her apartment, § 87(2)(b) slammed the door. The officers continued to bang on § 87(2)(b)'s door and repeatedly told her to open the door. § 87(2)(b) refused to do so. The officers eventually left. § 87(2)(b) got her radio back after she returned from central booking.

§ 87(2)(b) resident of § 87(2)(b) § 87(2)(b) called 911 in regards to a noise complaint against § 87(2)(b) stated that she has frequently filed noise complaints against § 87(2)(b) due to the excessive amount of noise emitting from her apartment (Board Review 03). After telling the police officers which apartment § 87(2)(b) resided in, § 87(2)(b) closed her door. § 87(2)(b) did not hear the conversation between the police officers and § 87(2)(b) and did not see any officer enter § 87(2)(b)'s apartment.

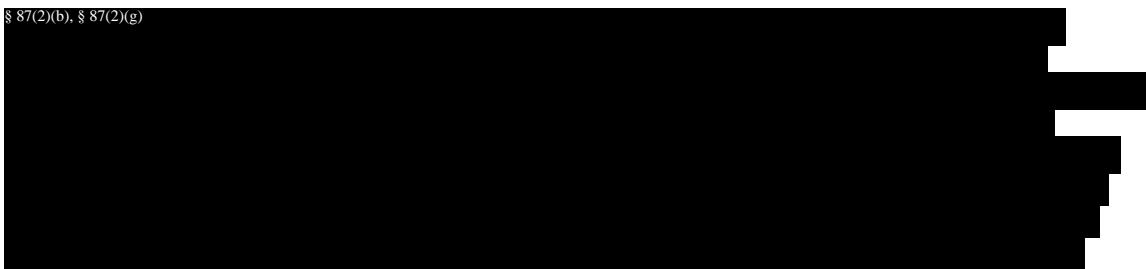
§ 87(2)(b) a security officer at the apartment building, stated that PO Mullings and PO Williams informed him that they were responding to a noise complaint and went upstairs to the § 87(2)(b) floor (Board Review 04). After approximately ten minutes, Security Officer § 87(2)(b) went upstairs himself to check on the situation. He observed the two officers speaking to § 87(2)(b) in the hallway, informing her that she had to turn down her music. He did not recall any officer entering any apartment. Security Officer § 87(2)(b) went back downstairs prior to the officers leaving.

Video footage was obtained from the fifth floor of § 87(2)(b). However, the angle of the camera does not capture § 87(2)(b)'s apartment door and is therefore not useful in assessing the entry allegation (Board Review 05).

PO Mullings and PO Williams provided generally consistent testimony in regards to this incident (Board Reviews 06, 07). Both officers stated that when they arrived at the fifth floor, they could hear the television from outside § 87(2)(b)'s door and that when they told § 87(2)(b) to lower the television, she did so but not before, turning her radio on so it was playing at a high volume. The officers stated that PO Mullings never threatened to seize the television at any point. Once § 87(2)(b) turned the radio on, PO Mullings asked her to turn it down. § 87(2)(b) told the officers that she was playing the radio because she did not want anyone to hear what was going on inside her apartment. § 87(2)(b) told the officers that they should just take the radio because she was not going to turn it down on her own accord. PO Mullings told § 87(2)(b) that this was not necessary and that they just wanted her to turn it lower. § 87(2)(b) insisted in the face of repeated refutations from the officers, that if the radio remained in her apartment she would continue to play it at the same volume. After approximately one minute of arguing, § 87(2)(b) went inside her apartment, unplugged her radio, and handed it to PO Mullings, who relented and agreed to take the radio. PO Williams asked for § 87(2)(b)'s identification so that § 87(2)(b) could pick the radio up later at the stationhouse. Both officers denied that PO Mullings ever entered § 87(2)(b)'s apartment.

Patrol Guide Procedure 214-23 states that officers may seize sound production devices as evidence in issuing a criminal court summons for a unreasonable noise violation and that warrantless entry into a private premises is not authorized solely for the purpose of abating a noise violation or seizing a sound production device (Board Review 08).

§ 87(2)(b), § 87(2)(g)



**Allegation D-Force: Police Officer Desean Mullings used physical force against § 87(2)(b)**

**Allegation E-Force: Police Officer Marika Williams used physical force against § 87(2)(b)**

**Allegation F-Force: Police Officer Luis Ramirez used physical force against § 87(2)(b)**

**Allegation G-Force: Police Officer Andrew Demichael used physical force against § 87(2)(b)**

**Allegation H-Force: An officer used physical force against § 87(2)(b)**

§ 87(2)(b) testified that after the officers left, she went downstairs to the lobby in order to file a grievance against § 87(2)(b). While at the security desk, § 87(2)(b) saw § 87(2)(b) “lost her mind”, chased § 87(2)(b) behind the security desk, and threw pens and pencils at her. Security Officer § 87(2)(b) took § 87(2)(b)’s right arm and pulled it through the slot on the security desk where people provide their IDs and repeatedly hit her arm. § 87(2)(b)’s neighbor called 911 and claimed that § 87(2)(b) was assaulting her and Security Officer § 87(2)(b). PO Mullings and PO Williams were the first officers on scene. § 87(2)(b) told the officers that they could arrest her. PO Mullings grabbed § 87(2)(b)’s upper arms and attempted to bring her arms behind her to handcuff her.

While the officers were trying to handcuff § 87(2)(b), Security Officer § 87(2)(b) came from behind the booth and tried to “run up” on § 87(2)(b). § 87(2)(b) felt threatened and moved her arms in front of her chest to prevent the officers from handcuffing her. PO Mullings tried to pick § 87(2)(b) up by the back of her knees but he was unable to lift her up. PO Williams grabbed the back of § 87(2)(b)’s hair and pulled on it, causing her pain. PO Ramirez and PO Demichael arrived to the scene, and all of them grabbed onto her and pressed her chest against the glass partition of the security booth. § 87(2)(b) could not describe the officers’ actions in detail because she “was in the middle of getting my ass kicked.” An officer, who § 87(2)(b) could not see, took one hand and placed it on the back of § 87(2)(b)’s head and pushed her face into the glass. § 87(2)(b)’s left forehead struck the glass. The next thing she knew, she was in handcuffs.

PO Mullings’ TRI report included a full body photograph of § 87(2)(b). § 87(2)(b) does not have any visible injuries to her forehead (Board Review 09). On § 87(2)(b), § 87(2)(b) went to the § 87(2)(b) and stated that she was assaulted by the security officer at her building, which caused bruising and lower back pain (Privileged Documents). The medical records do not mention of any forehead injuries. § 87(2)(b) was prescribed Ibuprofen for her pain. The only mention of officers in § 87(2)(b)’s medical records is when she states that officers handcuffed her following her dispute with Security Officer § 87(2)(b).

Video obtained from the entrance of § 87(2)(b) corroborates § 87(2)(b)’s testimony in that when PO Mullings and PO Williams first enter the building, she puts her arms behind her back in a manner that suggested she was willing to be handcuffed (Board Review 10). However, when Security Officer § 87(2)(b) exits the security desk and walks toward the glass door, § 87(2)(b) moves around the room and moves her arms in front of her chest while the officers try and handcuff her. Thirty four seconds after PO Mullings and PO Williams arrive inside the building,

PO Demichael and PO Ramirez enter and also try and handcuff § 87(2)(b) by grabbing her arms or putting her against the wall. At no point does the video show an officer grabbing the back of § 87(2)(b)'s head and pushing her against a wall. Once § 87(2)(b) is handcuffed, no further force is used against her.



201806590 Video (1 min 46 secs).mp4

All of the officers prepared identical TRI reports in regards to this incident, which state that § 87(2)(b) wrestled, grappled, shoved, and pushed the officers and that the force the officers used against her was described as “struggle trying to handcuff subject while subject resisted” (Board Reviews 11, 12, 13).

PO Mullings and PO Williams provided generally consistent testimony. Both officers stated that when they tried to handcuff § 87(2)(b) she yelled at Security Officer § 87(2)(b) and lunged toward him as if she were going to attack him. PO Mullings and PO Williams grabbed § 87(2)(b)'s arms to bring them back but she kept escaping their grasp. PO Mullings testified that § 87(2)(b) attempted to kick, swing her arms, spit, and bite at the officers but that she was unsuccessful in these efforts. Neither officer acknowledged pushing § 87(2)(b)'s head against a wall and they did not witness any other officer do this.

Patrol Guide Procedure 221-01 states that any use of force must be reasonable under the circumstances and that in determining whether force is reasonable, officers should consider the actions of the subject, the immediacy of the threat of harm to bystanders, and whether the subject is actively resisting custody (Board Review 14).

It is undisputed that § 87(2)(b) resisted the officers' attempts to handcuff her by moving her arms in front of her. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to two prior CCRB complaints and has been named as a victim in three allegations.
  - 201803095 involved an allegation of an entry and an allegation of a refusal to provide a name and shield. This case was closed as complainant uncooperative.
  - 201803416 involved an allegation of a threat to issue a summons and an allegation of a threat of arrest. This case was closed as complainant uncooperative.
  - 201809725 is open and is currently being investigated by the undersigned.
- Police Officer Desean Mullings has been a member of service for three years and has been a subject in one prior CCRB complaint involving one allegation, which was not substantiated. § 87(2)(g)
- Police Officer Marika Williams has been a member of service for two years and has been a subject in one prior CCRB complaint involving one allegation, which was not substantiated. § 87(2)(g)
- Police Officer Luis Ramirez has been a member of service for two years and this is the first case in which he is a subject officer.
- Police Officer Andrew Demichael has been a member of service for ten years and has been a subject in one prior CCRB complaint involving four allegations, none of which were substantiated. § 87(2)(g)

### **Mediation, Criminal, and Civil Histories**

- This case was not suitable for mediation.
- On December 6, 2016, a request was submitted to the Office of the Comptroller for any notice of claim filed in regards to this incident. The results of this request will be added to the case file upon receipt (Board Review 15).
- According to the Office of Court Administration (OCA), § 87(2)(b) does not have any criminal convictions in New York State (Board Review 16).

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_

Signature	Print Title & Name	Date
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Squad Leader: \_\_\_\_\_

Signature	Print Title & Name	Date
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Reviewer: \_\_\_\_\_

Signature

Print Title & Name

Date

Page 7

**CCRB Case # 201806590**